

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION AT MEMPHIS**

RACHELLE CRAIG,

Plaintiff,

v.

Case No. 08-2334-STA-egb

EZPAWN TENNESSEE, INC.
JOEL WASSOM, JR.,
MIKE RECORD,
TOM WILSON, and
LYNNE MANDIOLA,

Defendants.

EZPAWN TENNESSEE, INC.,

Counter-Plaintiff,

v.

RACHELLE CRAIG,

Counter-Defendant,

KRISTIAN SANDERS,

Additional Defendant on Counterclaim, and

MICHAEL HEWLITT,

Additional Defendant on Counterclaim.

COUNTERCLAIM OF EZPAWN TENNESSEE, INC.

COMES NOW Defendant/Counter-Plaintiff, EZPAWN Tennessee, Inc., by and through the undersigned counsel, pursuant to Fed. R. Civ. P. 13, and hereby submits the

following Counterclaim against Plaintiff/Counter-Defendant Rachelle Craig and Additional Defendants on Counterclaim Kristian Sanders and Michael Hewlitt.

PARTIES

1. Counter-Plaintiff EZPAWN Tennessee, Inc. is a Delaware corporation that is qualified to do business in Tennessee. The principal place of business of EZPAWN Tennessee, Inc. ("EZPAWN") is 1901 Capital Parkway, Austin, Texas 78746. EZPAWN is engaged in the business of making pawn loans and selling pawned merchandise.

2. Counter-Defendant Rachelle Craig is, upon information and belief, a citizen and resident of Shelby County, residing at 4073 Leech Road, Memphis, Tennessee 38109.

3. Additional Defendant on Counterclaim, Kristian Sanders, is, upon information and belief, a citizen and resident of Shelby County, residing at 1336 N. Willett Street, Memphis, Tennessee 38108.

4. Additional Defendant on Counterclaim, Michael Hewlitt, is, upon information and belief, a citizen and resident of Shelby County, residing at 1913 Boyle Avenue, Memphis, Tennessee 38114.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this Counterclaim pursuant to 28 U.S.C. § 1367.

6. Venue lies in this Court pursuant to 28 U.S.C. § 1391.

FACTS

7. At all relevant and material times, Rachelle Craig, Kristian Sanders, and Michael Hewlitt (collectively "Counter-Defendants") were employees of EZPAWN

Tennessee, Inc. (hereinafter “EZPAWN”), working at EZPAWN’s store located at 1410 Poplar Avenue in Memphis (hereinafter “Store 60110”).

8. At all relevant and material times, Rachelle Craig was employed by EZPAWN as the Store Manager of Store 60110.

9. At all relevant and material times, Michael Hewlitt was employed by EZPAWN as the Assistant Store Manager of Store 60110.

10. At all relevant and material times, Kristian Sanders was employed by EZPAWN as a Sales and Loan Representative at Store 60110.

11. Upon information and belief, at various times between approximately April 30, 2007 and May 9, 2007, Rachelle Craig, without the knowledge, authority, or permission of EZPAWN, acquired jewelry from pawn shops other than EZPAWN and provided such jewelry to Kristian Sanders and/or Michael Hewlitt. Without the knowledge, authority, or permission of EZPAWN, Kristian Sanders and Michael Hewlitt, acting in concert with Rachelle Craig, used fictitious customer names to purchase and/or write pawn loans for such jewelry in amounts greater than the amount authorized for each piece of jewelry pursuant to EZPAWN’s jewelry appraisal system and EZPAWN procedures. As a result of said transactions, Rachelle Craig, Kristian Sanders, and Michael Hewlitt received cash from EZPAWN, the amount from each transaction being based on the over-inflated appraisal value of said jewelry.

12. Upon information and belief, Rachelle Craig, Kristian Sanders, and Michael Hewlitt split, on a percentage basis, the monetary difference between EZPAWN’s appraisal value of the jewelry described in Paragraph 11 and the over-inflated

value of the jewelry described in Paragraph 11, and they did so without the knowledge, authority, or permission of EZPAWN.

13. Upon information and belief, Rachelle Craig, Kristian Sanders, and Michael Hewlitt, acting in concert, processed approximately forty-eight (48) pawn transactions in which the value of the jewelry was over-inflated beyond that permitted by EZPAWN's jewelry appraisal system, resulting in a total financial loss to EZPAWN of approximately \$59,210.00. This sum has not been returned to EZPAWN.

CAUSE OF ACTION FOR CONVERSION

14. EZPAWN repeats and realleges each of the foregoing allegations of this Counterclaim with the same force and effect as if fully set forth herein.

15. EZPAWN is the legal owner of the approximately \$59,210.00 taken by Counter-Defendants and is entitled to possession of this property. Counter-Defendants have no property interest in the sums taken during the Counter-Defendants' over-inflated purchase and/or pawn loan scheme described in Paragraphs 11-13 above.

16. Counter-Defendants obtained possession of approximately \$59,210.00 without the knowledge, permission, or authority of EZPAWN and retained possession of this sum without the permission of EZPAWN.

17. Counter-Defendants, by over-inflating the purchase amounts and pawn loans for approximately forty-eight (48) pieces of jewelry and stealing the difference between EZPAWN's appraisal value of the merchandise and the over-inflated value of the merchandise, intentionally converted EZPAWN's property for Counter-Defendants' own use and benefit.

18. As a direct and proximate result of Counter-Defendants' intentional acts of conversion, EZPAWN has suffered and will continue to suffer irreparable damages as long as its property remains in the possession of Counter-Defendants.

PRAYER FOR RELIEF

19. WHEREFORE, PREMISES CONSIDERED, Counter-Plaintiff EZPAWN Tennessee, Inc. prays for judgment as follows:

A. That process be issued upon Counter-Defendant Rachelle Craig and Additional Defendants on Counterclaim Kristian Sanders and Michael Hewlitt and that each be required to answer this Counterclaim;

B. That Counter-Plaintiff EZPAWN Tennessee, Inc. be awarded judgment against Rachelle Craig, Kristian Sanders, and Michael Hewlitt, jointly and severally, for compensatory damages in a sum to be shown to the Court, but believed to be approximately \$59,210.00;

C. That Counter-Plaintiff EZPAWN Tennessee, Inc. be awarded pre-judgment and post-judgment interest;

D. That all costs be taxed to the Counter-Defendants; and

E. That Counter-Plaintiff EZPAWN Tennessee, Inc. be awarded all such other relief, both general and special, to which it may be entitled.

Respectfully submitted,

APPERSON CRUMP PLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by Federal Express Home and by mailing same, U. S. Postage pre-paid, upon Rachelle Craig, 4073 Leech Road, Memphis, TN 38109, this the 23rd day of April, 2010.

s/ Bruce M. Smith
Bruce M. Smith